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October 19, 2018

FEDERAL EXPRESS

Mike Rafati, Enforcement Specialist
U.S. Environmental Protection Agency, Region 5
Superfund Division – Emergency Response Branch 2
Enforcement Support Section, SE-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Documents Containing Confidential Business Information in Response to EPA's June 12, 2018 CERCLA 104(e) Request for Information
Behr Dayton Thermal Products VOC Plume Site, Dayton, Montgomery County, Ohio
(Site Spill Identification Number: B5FH)
NOTICE: DOCUMENT CONTAINS AND DISCUSSES PROTECTED
CONFIDENTIAL BUSINESS INFORMATION

Dear Mr. Rafati:

Please find enclosed a CD containing documents (marked as LMP_001034–LMP_001182) that include protected Confidential Business Information ("CBI"). These documents are responsive to EPA's June 12, 2018 CERCLA 104(e) Request for Information directed to La Mirada Products Co., Inc. (the "Company") regarding the above-referenced Site, and such documents are in addition to the documents produced to EPA on October 16, 2018 (LMP_000001–LMP_001033) as part of the October 16, 2018, 104(e) response.

The information contained in this CD is entitled to protection as CBI under 40 C.F.R. Part 2, Subpart B because: (1) the information consists of financial and tax information, the disclosure of which would cause substantial harm to the Company's competitive position; (2) the Company takes specific measures to protect the confidentiality of this information and prevent its disclosure; and (3) this information is not reasonably obtainable without the consent of the Company.

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The documents produced on this CD contain the Company's 2013-2017 financial information (such as revenues, expenses, assets, and liabilities), federal tax returns, and related tax information. Under 26 U.S.C. § 6103, federal tax returns and Return Information are deemed confidential and protected from disclosure. 26 U.S.C. § 6103 ("Returns and Return Information shall be confidential, and . . . no officer or employee of the United States shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee . . ."). Return Information includes:

a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense[.]

26 U.S.C. § 6103(b)(2). The Company's financial information, which includes assets, revenues, expenses, and related tax information, is also deemed confidential and protected from disclosure pursuant to the Trade Secrets Act, 18 U.S.C. § 1905.

Moreover, disclosure of the Company's 2013-2017 federal tax returns or financial information is likely to cause substantial harm to the Company's competitive position vis-à-vis its competitors because such information would help a competitor by aiding in selective pricing, market concentration, expansion plans, or possible take-over bids. *See e.g., Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976) (finding Selective pricing, market concentration, expansion plans and possible take-over bids would be facilitated by knowledge of the disclosing company's financial information). Moreover, the financial information would help suppliers, contractors, labor unions and creditors to use such information to bargain for higher prices, wages, or interest rates. *See id.*

The Company takes reasonable measures to protect the confidentiality of this information and prevent its disclosure. The Company's financial and tax information are not all publicly available and are handled internally by certain Company individuals/departments. The Company guards this information as confidential and protects/prevents against disclosure of this information by internal processes and compartmentalization. Additionally, this information is not reasonably obtainable without the consent of the Company nor obtainable without disclosure by the Company, since such information is guarded as confidential. Accordingly, this information is entitled to protection as CBI under 40 C.F.R. Part 2, Subpart B.

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Should you have any questions or like to discuss the Company's request for CBI treatment with regard to the enclosed documents and information, please contact me at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "E. Chase Dressman". The signature is written in dark ink and is positioned above the printed name.

E. Chase Dressman

ECD:mat
Enclosures

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